

AUSTRALIA NEW ZEALAND SOUTH PACIFIC ISLANDS AGREEMENT

A Cooperative Working Agreement

FMC AGREEMENT NO. 201295-001

Original Effective Date: May 27, 2019

Expiration Date: None

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ARTICLE 1: NAME OF AGREEMENT

The full name of this Agreement is the Australia New Zealand South Pacific Islands Agreement (the "Agreement").

ARTICLE 2: PURPOSE OF THE AGREEMENT

The purpose of this Agreement is to authorize the Parties to share vessels with one another, charter and exchange space on one another's vessels, and to coordinate and cooperate with respect to the Parties' transportation services and operations in order to achieve operating efficiencies and cost savings, optimize vessel utilization, and provide high quality service to the shipping public in the Trade.

ARTICLE 3: PARTIES TO THE AGREEMENT

The Parties to this Agreement are:

NEPTUNE PACIFIC DIRECT LINE PTE. LTD. (NPDL)
8 Wilkie Road, #03-01
Wilkie Edge, Singapore, 228095

ANL SINGAPORE PTE LTD DBA SOFRANA ANL (referred to herein as ANL SOFRANA)
9 North Buona Vista Drive, #14-01
The Metropolis, Tower 1
Singapore 138588

Pacific FORUM LINE (GROUP) LIMITED (PFL)
P.O. Box 782
Port Vila, Vanuatu

Neptune Pacific Line, Inc. (NPL)
Law Partners House, Box 212
Port Vila, Vanuatu

(each hereinafter referred to individually as a "Party," and collectively as "the Parties")

ARTICLE 4: GEOGRAPHIC SCOPE

This Agreement covers the trade between ports in Australia, New Zealand, New Caledonia, Vanuatu, Fiji, Tonga, and Samoa, on the one hand, and American Samoa, on the other hand, as well as related intermodal service to and from inland points via such ports (the "Trade"). The inclusion of any non-U.S. trades in this Agreement shall not bring such non-U.S. trades under the jurisdiction of the U.S. Federal Maritime Commission or entitle the Parties hereto to immunity from the U.S. antitrust laws with respect to such non-U.S. trades.

ARTICLE 5: AGREEMENT AUTHORITY

5.1. The Parties are authorized to meet together, discuss, reach agreement and take all actions deemed necessary or appropriate by the Parties to implement or effectuate any agreement regarding sharing of vessels, chartering or exchange of space, and related coordination and cooperative activities pertaining to their operations and services, and related equipment, vessels and facilities in the Trade. It is initially contemplated that the Parties will deploy a total of three (3) vessels, each with an approximate capacity of 400 TEUs, on two services referred to as the AUSEPAC and SOUTHPAC services (collectively, the "Services"). The AUSEPAC service begins and ends in Australia with calls in New Caledonia, Vanuatu, Fiji, American Samoa, Samoa, and Tonga. The SOUTHPAC service begins and ends in New Zealand with calls in American Samoa, Samoa, and Tonga. NPL and PFL will operate one (1) vessel each on the AUSEPAC service, and NPDL will operate one (1) vessel on the SOUTHPAC service. The Parties may modify their deployment on the Services to between two (2) and six (6) total vessels and the TEU capacities of these vessels by up to fifty percent without amendment to this Agreement.

5.2. In furtherance of the authorities set forth in Article 5.1, the Parties are authorized to engage in the following activities, to the extent permitted by the applicable law of the relevant jurisdictions within the scope of this Agreement, and subject to any applicable filing requirements:

(a) Consult and agree upon the type, capacity, speed, and total number of vessels to be used and contributed by each Party, changes in the number and size of vessels provided by any Party, introduction of additional, substitute, or replacement vessels, temporary capacity adjustments in the Trade including void and blank sailings to respond to seasonal demands, and substitution or withdrawal of vessels and the terms, conditions and operational details pertaining thereto;

(b) Consult and agree upon the sailing schedules, service frequency, coordination of sailings, vessel itineraries, ports to be served, port rotations, the number, frequency, and character of sailings at ports, transit times, adjustment of the speed of vessels (including slow steaming of vessels), and all other matters related to the scheduling and coordination of vessels;

(c) Consult and agree upon arrangements for the chartering or managing of vessels (individually and/or jointly), and the exchange or allocation of space on a per sailing basis, on such terms as they may agree from time to time;

(d) Consult, agree upon, negotiate and contract (individually and/or jointly) for the chartering, hiring, use, scheduling, coordination, and/or operation of feeder, barge, and/or transshipment services in conjunction with linehaul vessel operations hereunder, including the sale or exchange of feeder, barge or transshipment slots among them; provided however that the Parties may only jointly contract for any such services outside the United States;

(e) Establish and maintain such standing and/or *ad hoc* committees as the Parties deem necessary or appropriate for the efficient administration of the Agreement;

(f) Establish, maintain, and dissolve a third party entity to administer the accounts under this Agreement; agree on their respective capital contributions (if any) and ownership interests in such entity; establish bylaws for the operation of the entity; and enter into a shareholders' agreement with respect to the operation of such entity; and

(g) Consult and agree upon vessel maintenance and repair matters, drydocking schedules, and the provision of temporary replacement or substitute tonnage.

5.3 The Parties are authorized to charter space in the Trade up to the full reach of a vessel, on vessels owned, bareboat or time chartered by a Party, on such terms and conditions as the Parties may agree from time to time. The Parties may discuss and agree upon their space requirements and the availability of such space, as well as the place and timing of the provision of space; procedures for booking space, weight and slot allocations, handling excess cargo and space allocation, documentation, and special cargo handling instructions or requirements; all matters relating to the transshipment of cargo moving under this Agreement on vessels provided by the Parties or by other carriers; and compensation for vessel delivery and redelivery costs and for space chartered, and procedures for billing and payment.

5.4 The Parties are authorized to discuss and agree upon the terminals to be called by the vessels operated hereunder, as well as the stevedores that will service such vessels, and/or the volume of cargo to be handled by such terminals or stevedores. In furtherance of the foregoing, the Parties are

authorized to discuss, exchange information, and/or coordinate negotiations with marine terminal operators or stevedores relating to operational matters such as port schedules and berthing windows; availability of port facilities, equipment and services; adequacy of throughput; and the procedures of the interchange of operational data in a legally compliant matter. Notwithstanding the foregoing, the Parties shall have no authority to jointly contract with terminals or stevedores under this Agreement and nothing shall authorize the Parties jointly to operate a marine terminal in the United States.

5.5 The Parties may consult and agree to accept and carry loaded or empty containers (including containers which they own, lease, control or receive from third parties) and noncontainerized cargo, on their own vessels and on one another's vessels (including owned or chartered vessels). The Parties may interchange, cross lease or sublease empty containers, chassis and/or related equipment on such terms as they may agree.

5.6 (a) The Parties may obtain, compile, maintain, discuss, and exchange among themselves information, records, statistics, studies, compilations, consultancy reports, and forecasts/projections related to their operations and pertaining to supply and demand and vessel utilization forecasts/projections, operational data on vessels and terminals, intermodal moves, dwell times, vessel cascading plans and information, schedule performance, dry-dock plans, liftings, length of port/terminal stays, productivity, port pair information, standard port charges, third party costs including vendor, terminal, and bunker costs and consumptions, cargo carryings, equipment utilization, and market share information, whether prepared by a Party or Parties or obtained from outside sources. The Parties may use any such information to jointly make projections and plans relating to current or future vessel capacity and service structure to be offered in the Services under this Agreement. In addition, the Parties are authorized to disclose to the operator of each vessel in the AUSEPAC and SOUTHPAC services

all information necessary to comply with any required governmental filings or disclosures, including manifest information required to be submitted to U.S. Customs and Border Protection.

(b) Except as provided in Paragraph 5.8(d) of this Agreement, nothing in subparagraph 5.6(a) herein authorizes the Parties to exchange information on freight rates, prices, tariff items, confidential service contract terms or conditions, individual customer lists, individual marketing plans or advertising, or individual bids.

5.7 The Parties are authorized to discuss and agree on their respective rights; fair and reasonable allocation of liabilities among the Parties; apportionment of damages; satisfaction of claims; procurement of insurance and claims thereunder; indemnities for activities under this Agreement; performance procedures and penalties; consequences for delays; matters pertaining to cargo loss or damage, damage or loss to containers or other equipment; accounting and cash flow procedures; schedule or delivery delays; loss of or damage to a vessel, accidents, hazardous, breakbulk, or oversized cargoes; loss or damage caused by cargo; damage to persons or property, failure to perform, force majeure, general average, stowage planning, schedule adjustments, record-keeping, and any liability to third parties.

5.8 (a) The Parties are authorized to pool voyage revenue, earnings, expenses, and/or voyage costs for the cargo carried in the Trade; to determine the components of voyage revenue, including gross freight revenue, arbitraries, currency, bunker or other costs and fees, port charges levied against cargo such as wharfage, and revenues from third parties; and to determine the components of voyage costs, including those for agency commission, terminal loading and discharging, empty container positioning, chassis costs, reefer monitoring, cargo securing, quarantine fees and fumigation, inland transportation and cartage, container depots and storage, provision of vessels (including daily charter hire, bunkers, port costs, charter insurance, delivery and redelivery costs) and containers. The Parties are authorized to

discuss and agree upon cash flow procedures, share net losses and/or divide the net income from the pool among themselves pursuant to formulas and with such frequency as they may agree from time to time.

(b) The pool shares in the AUSPAC Service will be apportioned as follows:

PFL	30%
NPL	32%
NPDL	27%
ANL SOFRANA	11%

(c) Revenues and costs from the SOUTHPAC service will not be pooled and NPDL shall sell slots to the other parties using the SOUTHPAC service pursuant to the authority set forth in Articles 5.1 and 5.2 of this Agreement.

(d) The pooling of revenues and costs for the AUSPAC service under this Agreement shall be administered by a pool manager employed by NPL. Notwithstanding the provisions of Paragraph 5.6(b) of this Agreement, the Parties are authorized to submit, disclose, and share relevant revenue and cost data by means of manifest summaries reflecting shipments carried on the AUSPAC service, with the pool manager for the AUSPAC services. The manifest summaries submitted to the pool manager for the purposes of pooling shall not contain any shipper-specific or consignee-specific information. Revenue

and cost information disclosed to the pool manager for the AUSEPAC service shall be used for the sole purpose of administering the pooling of revenues and costs under this Agreement and shall not be used for any other purpose.

5.9 Each Party shall operate under its own name, issue its own bill of lading, publish its own tariff and shall collect its own freights. Each Party shall be responsible for marketing its own interests in the Services. The Parties shall not be deemed to be a joint service and shall maintain separate sales organizations. In addition, the Parties shall be independent contractors in relation to one another and no Party shall be deemed to be the agent of another.

5.10 It is understood that the vessels to be operated by the Parties in the Trade or any substitute vessels will be contributed to provide an adequate, economic, and efficient shipping service in the Trade to maintain the Minimum Capacity and Service Levels negotiated as required with designated shipper bodies in Australia. It is also understood that in order to provide such an adequate, economic, and efficient shipping service in the Trade to maintain Minimum Capacity and Service Levels, it is necessary for the Parties' vessel utilizations to be maximized. Accordingly, no Party or any parent, subsidiary, or affiliate of a Party may operate any direct, relay, or transshipment service in the Trade that competes with the Services operated hereunder, except as may be otherwise provided by a majority vote of all the Parties.

5.11 The Parties are authorized to enter into implementing arrangements, writings, understandings, procedures and documents within the scope of the authorities set forth in this Article 5 in order to carry out the authorities and purpose hereof; provided, however, that any further specific agreements reached pursuant to the authority contained herein which are not exempt from filing shall be filed with the U.S. Federal Maritime Commission to the extent legally required under the Shipping Act of 1984.

5.12 This Agreement authorizes any two or more Parties to discuss and formulate common positions on any matters within the scope of this Agreement; provided, however, that this Agreement does not provide authority for fewer than all Parties to make and implement any agreement that would otherwise be required to be filed under the Shipping Act.

ARTICLE 6: OFFICIALS OF THE AGREEMENT AND DELEGATIONS OF AUTHORITY

(a) This Agreement shall be implemented and administered by meetings and other written and oral communications among the Parties. The Parties are authorized to adopt written procedures and policies with respect to the day-to-day operational requirements under the Agreement, as well as with respect to communications among themselves.

(b) The following shall have the authority to sign and file this Agreement and any amendments thereto, and to otherwise act on behalf of the Parties: (a) any authorized officer or official of each Party and (b) legal counsel for each Party.

ARTICLE 7: MEMBERSHIP

Additional parties may be admitted to this Agreement upon unanimous agreement of the Parties.

ARTICLE 8: VOTING

All decisions of the Parties shall be by majority vote of all the Parties.

ARTICLE 9: DURATION AND RESIGNATION

9.1 This Agreement shall take effect on the first day it may be lawfully implemented under applicable laws, and shall continue indefinitely thereafter until any Party serves (3) months written notice to terminate the Agreement.

9.2 Notwithstanding the provisions of Article 9.1 above, if at any time during the term of the Agreement there shall be a change in the control or a material change in the ownership of a Party (the Party so affected being referred to in this Article 9.2 only as the "Affected Party"), and any other Party is of the opinion, arrived at in good faith, that such change is likely to materially prejudice the cohesion or viability of the Agreement, then the other Parties shall have the right, within six (6) months of becoming aware of such change in control, to either:

- (a) unanimously agree to give three (3) months written notice to the Affected Party to terminate this Agreement with respect to that Party; or
- (b) if the Affected Party's participation is not terminated, individually withdraw from this Agreement by giving not less than three (3) months written notice to the other Parties.

9.3 Notwithstanding Article 9.1, if at any time during the term of the Agreement any Party should become bankrupt or declares insolvency or have a receiving order made against it, suspend payments, or continue its business under a receiver for the benefit of any of its creditors, or if a petition is presented or a meeting convened for the purpose of considering a resolution, or other steps are taken, for the winding-up of the Party (otherwise than for the purposes of and followed by a resolution previously approved in writing by the other Parties), or any event similar to any of the above shall occur under the laws of the Party's country of incorporation (the Party so affected being referred to in this Article 9.3 only as the "Affected Party") and the other Parties are of the opinion that the result may be materially detrimental to the Service, or that sums may be owed by the Affected Party to any other Party(s) and may

SIGNATURE PAGE

IN WITNESS WHEREOF, the Parties have caused this first revised Agreement to be executed by
their duly authorized representatives as of this 15th day of January 2021.

NEPTUNE PACIFIC DIRECT LINE PTE. LTD.

By: 

Name: David K. Monroe

Title: Attorney-in-Fact

ANL SINGAPORE PTE LTD

By: 

Name: Victor ANG
Director

Title: _____



PACIFIC FORUM LINE (GROUP) LIMITED

By: 

Name: David K. Monroe

Title: Attorney-in-Fact

NEPTUNE PACIFIC LINES, INC.

By: 

Name: David K. Monroe

Title: Attorney-in-Fact

#368545

